

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:11-cv-00077-RWS
AMEREN MISSOURI,)	
)	
Defendant.)	
_____)	

**UNITED STATES' BRIEF IN SUPPORT OF ITS
MOTION TO COMPEL PRODUCTION OF DOCUMENTS**

Exhibit G

From: [McLane, Bradford \(ENRD\)](#)
To: [Yoon, Richard \(ENRD\)](#)
Subject: FW: Ameren production
Date: Tuesday, September 30, 2014 5:58:24 PM

From: Bone, Deborah [<mailto:DBone@schiffhardin.com>]
Sent: Tuesday, September 30, 2014 2:14 PM
To: Beers, James (ENRD); Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope
Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)
Subject: RE: Ameren production

James,

We continue to assert privilege over the entirety of AM-02742695, AM-02742693 and AM-02742700. We will not produce these documents in redacted form.

Thank you,
Deborah

From: Beers, James (ENRD) [<mailto:James.Beers@usdoj.gov>]
Sent: Monday, September 29, 2014 12:12 PM
To: Bone, Deborah; Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope
Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)
Subject: RE: Ameren production

Hi Deborah, I just want to follow up on these 3 documents. Has your side come to a decision as to whether these documents will be produced in redacted form?

From: Beers, James (ENRD)
Sent: Friday, August 22, 2014 1:49 PM
To: 'Bone, Deborah'; Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope
Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)
Subject: RE: Ameren production

Deborah, we disagree that the entire email chain is privileged and request that you meet and confer next week so that you can explain the bases for your assertion. We will sequester these documents in the meantime, pursuant to paragraph 22 of the ESI agreement.

From: Bone, Deborah [<mailto:DBone@schiffhardin.com>]
Sent: Thursday, August 21, 2014 3:37 PM

To: Beers, James (ENRD); Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope

Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)

Subject: RE: Ameren production

James,

Yes, the entire emails produced at AM-02742695, AM-02742693 and AM-02742700 are privileged and were inadvertently produced by Ameren through its Counsel. We will consider your request to produce a redacted version.

Again, please confirm in writing that you have complied with our request set forth in my e-mail below. If we have not received your written reply within ten days of this letter, we will assume that you have complied.

Thank you,
Deborah

From: Beers, James (ENRD) [<mailto:James.Beers@usdoj.gov>]

Sent: Wednesday, August 20, 2014 9:32 AM

To: Bone, Deborah; Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope

Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD); ENRD-Ameren Case Emails

Subject: RE: Ameren production

Deborah,

For clarification, does Ameren contend that the entire email is privileged? Assuming that the bases for Ameren's privilege claim is the one sentence referring to a conversation with Susan Knowles, we would request that the email be produced in redacted form because the rest of is plainly a non-privileged technical discussion. We have also found 2 other versions of the same email thread at AM-02742693 and AM-02742700.

Please confirm that you'll be producing the email in redacted form.

Thanks,
James

From: Bone, Deborah [<mailto:DBone@schiffhardin.com>]

Sent: Tuesday, August 19, 2014 6:29 PM

To: Beers, James (ENRD); Mock, Matthew B.; More, Joshua; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope

Cc: Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)

Subject: RE: Ameren production

James,

Document AM-02742695 was inadvertently produced by Ameren through its Counsel. Thank you for bringing this document to our attention.

Pursuant to the Protective Order in this case, we request that you immediately delete any and all copies of the document identified above from your databases (including the images and the corresponding OCR records) and destroy all printed or other copies of the document. Additionally, please notify anyone who has seen the document identified above that they may not use it, or any of the information contained therein, for any purpose, and that the confidentiality of that information must be maintained and respected.

Due to the extraordinary volume of documents produced by Ameren in this case, it is possible that Ameren's productions may contain additional privileged documents that were inadvertently produced. Such inadvertent production does not waive Ameren's right to later identify those documents as privileged and seek their return or destruction. Further, Ameren specifically reserves its rights to later identify any additional documents in its productions that were inadvertently produced and are subject to the attorney-client and/or work-product privileges.

Again, Ameren maintains, as it has previously stated, that any inadvertent disclosure of documents has not effected a waiver of the attorney-client or work-product privileges. Consistent with the Protective Order, Agreement Regarding Preservation and Production of Electronically Stored Information and Documents, and Federal Rule of Evidence 26(b)(5)(b), any such disclosure shall not act as a waiver of any privilege in this or any other proceeding.

Please confirm in writing that you have complied with this request. If we have not received your written reply within ten days of this letter, we will assume that you have complied.

Thank you,
Deborah

From: Beers, James (ENRD) [<mailto:James.Beers@usdoj.gov>]

Sent: Tuesday, August 19, 2014 4:02 PM

To: Mock, Matthew B.; More, Joshua; Bone, Deborah; Scott, David C.; Williams, Jeannice D.; Cumberlander, Hope

Cc: ENRD-Ameren Case Emails; Hanson, Andrew (ENRD); McLane, Bradford (ENRD); Quinn, Elias (ENRD); Cross, Anna (ENRD); Ziza, Iva (ENRD); Cooney, Nigel (ENRD); Woods, Claire (ENRD)

Subject: Ameren production

Counsel:

Please confirm whether Ameren intends to assert a claim of privilege over AM-02742695. We recently came across this document in our review and are bringing it to your attention because of the sentence in the second email referencing a conversation with Susan Knowles.

Regards,
James

James Beers, Jr.
Senior Counsel
U.S. Department of Justice
Environmental Enforcement Section
Regular Mail: P.O. Box 7611, Washington, DC 20044-7611
Express Mail: ENRD Mailroom 2121, 601 D Street, Washington, DC 20004
Telephone: (202) 305-0455
Facsimile: (202) 616-2427

This message and any attachments may contain confidential
information protected by the attorney-client or other privilege.
If you believe that it has been sent to you in error,
please reply to the sender that you received the message in
error. Then delete it. Thank you.
